

---

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5259

---

State of Washington

67th Legislature

2021 Regular Session

**By** Senate Ways & Means (originally sponsored by Senators Nobles, Carlyle, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Pedersen, Randall, Robinson, Saldaña, Stanford, Wellman, and Wilson, C.; by request of Attorney General)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to requiring reporting, collecting, and  
2 publishing information regarding law enforcement interactions with  
3 the communities they serve; adding a new chapter to Title 10 RCW; and  
4 providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that law enforcement  
7 transparency and accountability are vital in maintaining public  
8 trust. Data collection is one essential tool to allow the public, law  
9 enforcement, and policymakers to analyze the effectiveness of  
10 existing police practices, determine which policies and training work  
11 and do not work, and avoid unintended consequences by supporting  
12 policy decisions with clear and relevant data.

13 The legislature finds that creating a statewide data collection  
14 program that creates a publicly accessible database to track metrics  
15 will help to promote openness, transparency, and accountability,  
16 build stronger police-community relations, improve trust and  
17 confidence in policing services, evaluate specific areas of concern  
18 such as biased policing and excessive force, and ultimately improve  
19 the quality of policing services.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires  
3 otherwise.

4        (1) "Contractor" means the institution of higher education  
5 contracted with the office of the attorney general to implement the  
6 statewide use of force data program as provided in this chapter.

7        (2) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

8        (3) "Institution of higher education" has the same meaning as in  
9 RCW 28B.92.030.

10       (4) "Law enforcement agency" or "agency" means any general  
11 authority Washington law enforcement agency and limited authority  
12 Washington law enforcement agency as those terms are defined in RCW  
13 10.93.020.

14       (5) "Substantial bodily harm" has the same meaning as in RCW  
15 9A.04.110.

16       NEW SECTION.    **Sec. 3.**    (1)(a) Subject to the availability of  
17 amounts appropriated for this specific purpose, the attorney  
18 general's office shall establish an advisory group to assist with the  
19 office's design, development, and implementation of a statewide use  
20 of force data program. Members are appointed by the attorney  
21 general's office and must consist of:

22        (i) At least three representatives from local nongovernmental  
23 organizations or advocacy groups that are focused on the interactions  
24 between law enforcement and the community;

25        (ii) At least three representatives from law enforcement agencies  
26 or organizations representing the interests of law enforcement by  
27 interacting and utilizing this data; and

28        (iii) At least one representative from the private sector or the  
29 public sector with experience in data collection programs, preferably  
30 law enforcement data collection.

31        (b) To ensure the advisory group has diverse and inclusive  
32 representation of those affected by its work, advisory group members  
33 whose participation in the advisory group may be hampered by  
34 financial hardship may apply for a stipend in an amount not to exceed  
35 \$100 for each day during which the member attends an official meeting  
36 of the advisory group or performs prescribed duties approved by the  
37 attorney general's office.

38        (2) By April 1, 2022, the advisory group shall submit to the  
39 attorney general its recommendations on the following elements:

1 (a) How to prioritize the implementation of the reporting,  
2 collection, and publication of the use of force data reports required  
3 in section 4(2) of this act;

4 (b) Additional incidents and data to be collected from law  
5 enforcement agencies on interactions between officers and the public,  
6 such as traffic stops, pedestrian stops, calls for services, arrests,  
7 vehicle pursuits, and disciplinary actions, as well as demographic  
8 information including race, ethnicity, and gender of a crime victim  
9 or victims. This recommendation should consider phased  
10 implementation, if necessary, based on current practices and  
11 available data as compared to additional practices and new data that  
12 would need to be implemented by law enforcement agencies;

13 (c) Recommend practices for law enforcement agencies to collect  
14 and report data to the contractor. To the greatest extent feasible,  
15 the reporting mechanisms for the program must include the opportunity  
16 for law enforcement agencies to submit the required data elements  
17 through incident reports or any other electronic means. The advisory  
18 group may also work to develop a standardized incident report that  
19 meets the data and reporting requirements of the statewide use of  
20 force data program for voluntary use by law enforcement agencies;

21 (d) Recommend practices for the public to report relevant  
22 information to the contractor directly, or its successor, including  
23 correcting misreported and otherwise incorrect data;

24 (e) Recommend practices for public, law enforcement, and academic  
25 access and use of program data that must include, at a minimum:

26 (i) Public access to deidentified data and analysis in a  
27 searchable format published on a website by the contractor, including  
28 dashboards produced for agency use and methodologies employed in  
29 meeting requirements identified in this section, as long as any  
30 publication of those materials does not include personally  
31 identifiable information;

32 (ii) Access to deidentified raw and/or refined data for academic  
33 research;

34 (iii) Interactive data visualization tools designed for law  
35 enforcement agencies and other entities to use the data for research,  
36 professional development, training, and management;

37 (iv) The ability to extract data from incident reports, or other  
38 electronic means, and officer narratives in order to standardize data  
39 across multiple agencies;

1 (v) Ensure protection and removal of all personally identifiable  
2 information of officers, subjects, and victims in any data or  
3 analyses that are publicly released; and

4 (vi) Semiannual reports, summarizing the data collected and any  
5 related analysis, published on the website and submitted to the  
6 legislature and governor by June 1st and December 1st of each year;

7 (f) The advisory group may make recommendations in the following  
8 areas if time and resources allow:

9 (i) Analytical dashboards with individual officer details for use  
10 by law enforcement agencies as a risk management tool;

11 (ii) Agency level comparative dashboards for all law enforcement  
12 agencies in the state; and

13 (iii) Incorporating available historical data to identify long-  
14 term trends and patterns.

15 (3)(a) The office of the attorney general shall review the  
16 recommendations of the advisory group and approve or reject, in whole  
17 or in part, the recommendations. In reviewing the program  
18 recommendations, the office of the attorney general shall consider:

19 (i) Available funding to achieve the recommendations;

20 (ii) Prioritizing the implementation of the reporting,  
21 collection, and publication of the use of force data reports in  
22 section 4(2) of this act;

23 (iii) The interests of the public in accessing information in a  
24 transparent and expedient manner. In considering the interests of the  
25 public, the advisory board shall accept and consider comments from  
26 impacted family members or their designees;

27 (iv) The institutional operations and demands of law enforcement  
28 agencies through input and comments from the criminal justice  
29 training center and local law enforcement agencies.

30 (b) For any recommendation that was rejected, in part or in full,  
31 the advisory group may submit revised recommendations for  
32 consideration by the office of the attorney general in accordance  
33 with any deadlines established by the office. The office of the  
34 attorney general may also approve recommendations subject to the  
35 legislature appropriating the funding necessary for their  
36 implementation.

37 (4) The approved recommendations and the requirements contained  
38 in section 4 of this act constitute the statewide use of force data  
39 program.

40 (5) This section expires January 1, 2023.

1        NEW SECTION.    **Sec. 4.**    (1) Each law enforcement agency in the  
2 state is required to report each incident where a law enforcement  
3 officer employed by the agency used force and:

4        (a) A fatality occurred in connection with the use of force;

5        (b) Great bodily harm occurred in connection with the use of  
6 force;

7        (c) Substantial bodily harm occurred in connection with the use  
8 of force; or

9        (d) A law enforcement officer:

10       (i) Discharged a firearm at or in the direction of a person;

11       (ii) Pointed a firearm at a person;

12       (iii) Used a chokehold or vascular neck restraint;

13       (iv) Used an electronic control weapon including, but not limited  
14 to, a taser, against a person;

15       (v) Used oleoresin capsicum spray against a person;

16       (vi) Discharged a less lethal shotgun or other impact munitions  
17 at or in the direction of a person;

18       (vii) Struck a person using an impact weapon or instrument  
19 including, but not limited to, a club, baton, or flashlight;

20       (viii) Used any part of their body to physically strike a person  
21 including, but not limited to, punching, kicking, slapping, or using  
22 closed fists or feet;

23       (ix) Used a vehicle to intentionally strike a person or vehicle;  
24 or

25       (x) Deployed a canine by releasing it from the physical control  
26 of the law enforcement officer or had under the law enforcement  
27 officer's control a canine that bites a person.

28       (2) Each report required in subsection (1) of this section must  
29 include the following information:

30       (a) The date and time of the incident;

31       (b) The location of the incident;

32       (c) The agency or agencies employing the law enforcement  
33 officers;

34       (d) The type of force used by the law enforcement officer;

35       (e) The type of injury to the person against whom force was used,  
36 if any;

37       (f) The type of injury to the law enforcement officer, if any;

38       (g) Whether the person against whom force was used was armed or  
39 unarmed;

- 1 (h) Whether the person against whom force was used was believed  
2 to be armed;
- 3 (i) The type of weapon the person against whom force was used was  
4 armed with, if any;
- 5 (j) The age, gender, race, and ethnicity of the person against  
6 whom force was used, if known;
- 7 (k) The tribal affiliation of the person against whom force was  
8 used, if applicable and known;
- 9 (l) Whether the person against whom force was used exhibited any  
10 signs associated with a potential mental health condition or use of a  
11 controlled substance or alcohol based on the observation of the law  
12 enforcement officer;
- 13 (m) The age, gender, race, and ethnicity of the law enforcement  
14 officer;
- 15 (n) The law enforcement officer's years of service;
- 16 (o) The reason for the initial contact between the person against  
17 whom force was used and the law enforcement officer;
- 18 (p) Whether any minors were present at the scene of the incident;
- 19 (q) The entity conducting the independent investigation of the  
20 incident, if applicable;
- 21 (r) Whether dashboard or body worn camera footage was recorded  
22 for an incident;
- 23 (s) The number of officers who were present when force was used;  
24 and
- 25 (t) The number of suspects who were present when force was used.
- 26 (3) Each law enforcement agency must also report any additional  
27 incidents and data required by the statewide use of force data  
28 program developed in section 3 of this act.
- 29 (4) All law enforcement agencies shall submit the reports  
30 required by this section no later than three months after the office  
31 of the attorney general determines that the system procured in  
32 section 5 of this act can accept law enforcement agency reports.  
33 Reports must be made in the format and time frame established in the  
34 statewide use of force data program.

35 NEW SECTION. **Sec. 5.** (1) Subject to the availability of amounts  
36 appropriated for this specific purpose, the office of the attorney  
37 general must engage in a competitive procurement to contract with an  
38 institution of higher education to implement the statewide use of  
39 force data program. The primary purpose of the contract is to develop

1 a system for law enforcement agencies to report, collect, and publish  
2 the use of force data reports required in section 4 of this act.

3 (2) The request for proposal or other procurement method should  
4 encourage collaboration with other public and private institutions,  
5 businesses, and organizations with significant expertise and  
6 experience in collecting, tracking, and reporting data on law  
7 enforcement interactions with the public.

8 (3) Members and representatives of entities participating in the  
9 advisory group established in section 3 of this act may not  
10 participate or bid in the competitive procurement.

11 (4) The advisory group, or designated members of the group, may  
12 participate in the procurement process through the development of the  
13 request for proposal and the review and evaluation of responsive  
14 bidders.

15 (5) The contract must require the successful bidder to provide  
16 appropriate training to its staff and subcontractor staff, including  
17 training on racial equity issues.

18 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
19 constitute a new chapter in Title 10 RCW.

--- END ---